

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

IN RE:)
)
Victoria L. Sprouse,) Case No. 09-50535C-11G
)
Debtor.)

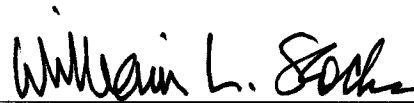
OPINION AND ORDER

This case came before the court on April 28, 2009, for hearing on a motion for change of venue or for dismissal filed by First Citizens Bank & Trust Company. Paul A. Fanning appeared on behalf of First Citizens, Rayford K. Adams III appeared on behalf of the Debtor, and Robert E. Price, Jr., appeared on behalf of the United States Bankruptcy Administrator. For the reasons that follow, the court has concluded that the motion for change of venue should be granted and that this case should be transferred to the United States Bankruptcy Court for the Western District of North Carolina.

It is undisputed that the Debtor has not resided in the Middle District of North Carolina, does not own any assets located in the Middle District of North Carolina and that the Middle District of North Carolina is not a proper venue for this case pursuant to 28 U.S.C. § 1408. According to the majority of decisions that have addressed the issue, 28 U.S.C. § 1406 is applicable where a case is filed in an improper venue and under section 1406, the court is required either to dismiss the case or transfer this case to a proper venue, if it be in the interest of justice. See Thompson v. Greenwood, 507 F.3d 416 (6th Cir. 2008). This court agrees with the majority view and, having concluded that it is in the interest of justice to transfer, rather than dismiss this case, will transfer this case to the United States Bankruptcy Court for the Western District of North Carolina, where the Debtor resides and has principal assets and which is a proper venue for this case.

IT IS SO ORDERED.

This 28th day of April, 2009.

A handwritten signature in black ink, reading "William L. Stocks", written over a horizontal line.

WILLIAM L. STOCKS

United States Bankruptcy Judge

SERVED ON ALL PARTIES IN INTEREST